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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,041	09/29/2003	John Harvey	020366D1	2581

23696 7590 09/11/2008  
QUALCOMM INCORPORATED  
5775 MOREHOUSE DR.  
SAN DIEGO, CA 92121

EXAMINER
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MARC, MCDIEUNEL

ART UNIT	PAPER NUMBER
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3664

NOTIFICATION DATE	DELIVERY MODE
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09/11/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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nanm@qualcomm.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/674,041	<b>Applicant(s)</b> HARVEY ET AL.	
	<b>Examiner</b> MCDIEUNEL MARC	<b>Art Unit</b> 3664	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 August 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 20-55 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 20-55 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 9/29/2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. Claims 20-55 are pending for examination.
2. The objection to the abstract has been withdrawn.
3. The double patenting rejection and the rejection to claims 20-55 under 35 U.S.C. 103(a) as being unpatentable over **Autermann** and **Murphy** in view of **Tamir** are maintained.
4. The terminal disclaimer has not been approved, because the fees have not been paid.

### ***Double Patenting***

5. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re*

*Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

6. Claims 20-55 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 24 and 30 of copending Application No. 10217393. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of this application are broader than the claims of the copending application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 20-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Autermann** (U.S. Pat. No. **6,232,874**) and **Murphy** in view of **Tamir**.

As per claims 20, 31, 32, 43, 44 and 55, **Autermann** teaches substantially a system and an associated method at a vehicle location for validating a vehicle operator to operate selected functions of a vehicle, comprising: an input device for entry of vehicle operator identification information (see col. 3, lines 56-57); a transceiver for transmitting said vehicle operator identification information to a remote location for validation and receiving from said remote

location (see col. 1, lines 43-56; col. 2, lines 23-38; and col. 4, lines 56-65); Autermann does not explicitly disclose a reply message specifying which of said selected functions the operator is validated to operate; and means for enabling said selected functions specified by said reply message.

However, Autermann teaches the capability of storing the user id with preset function according to the user's id (see col. 1, lines 63-67; and col. 11, lines 1-22), and sending the reply message with the preset function to the vehicle from the central station (see col. 4, lines 55-67) and **Murphy** teaches the capability of associating the user's id with certain functions permitted to the user (see col. 10, lines 6-1-67 and lines col. 11, lines 1-22), **Murphy** further suggests allowing the revise the selected vehicle function from a remote location (see col. 14, lines 25-47, and lines 57-63); further, **Tamir** teaches performing validation at the local user's device and transmitting only the validation message to the central station (see section 0119); and with respect to claims 31, 43 and 55, specifying a time during which the vehicle may be operated (see Murphy's col. 15, lines 10-33).

It would have been obvious to a person ordinary skill in the art at the time of the invention was made to store at the central station taught by Autermann the user's permitted operation functions with the capability to revise the functions at the remote location by Murphy in association with the user id, and to include in the message transmitted to the remote station validation information as taught by Tamir in order to relieve the central station from verification processes and to allow the central station to select permitted function according to the user's identification.

As per claims 21, 33 and 46, wherein said selected functions comprise flashing a headlight of said vehicle being considered blatantly as well known limitation the art of vehicle. For instance, the flashing of a headlight can be temporarily or continuously depends on the required conditions.

As per claims 22, 34 and 47, wherein said selected functions comprise flashing a tail light of said vehicle being considered blatantly as well known limitation the art of vehicle as stated above. For instance, the flashing of a taillight can be an emergency signal or any kind of indicator depends on the required conditions.

As per claims 23, 35 and 48, wherein said selected functions comprise flashing a vehicle interior light of said vehicle being considered blatantly as well known limitation the art of vehicle as stated above. For instance, the flashing of an interior light can be temporarily, continuously, indicating a malfunction of the vehicle or for just shading light depends on the required conditions.

As per claims 24, 36 and 45, wherein selected functions comprise sounding a horn of said vehicle being considered blatantly as well known limitation the art of vehicle as stated above. For instance, the sounding of horn can be temporarily or continuously depends on the required conditions.

As per claims 25-27, 37-39 and 49-51, wherein said selected functions comprise impairing operation of a vehicle associated with said apparatus; wherein said impairing operation of said vehicle comprises preventing said vehicle from starting and wherein said impairing operation of said vehicle comprises disabling a vehicle ignition system being considered

blatantly as well known limitation the art of vehicle as stated above. For instance, impairing the operation of a vehicle can be temporarily or continuously depends on the required conditions.

As per claims 28, 40 and 52, wherein said selected functions comprise impairing a fuel system of said vehicle being considered blatantly as well known limitation the art of vehicle as stated above.

As per claims 29, 41 and 53, wherein said impairing operation of said vehicle comprises impairing a vehicle transmission being considered blatantly as well known limitation the art of vehicle as stated above.

As per claims 30, 42 and 54, wherein said impairing a vehicle transmission comprises limiting the number of gears that may be used during operation of said vehicle being considered blatantly as well known limitation the art of vehicle as stated above.

Note: The limitations of dependent claims 21-30, 33-42, 46-51, 53 and 54 do not have any patentable weight, since they have been considered blatantly well known in the art of vehicle without excluding aircraft and boat art.

### ***Response to Arguments***

10. With respect to Murphy teaches a way from “receiving from said remote location a reply message...”. However, applicant's representative has been noted that in Murphy “the determination of the identity of the vehicle operator is performed locally from where title information is imputed” remote control operation is well known in the art, therefore it would have been obvious to one of ordinary skill in the art to use that function locally or remotely, therefore blatantly Murphy does not teach away from the actual claimed language.



With respect to Tamir not teaching “receiving from said remote location.....means for enabling said selected functions specified by said replay message” the sonic/ultrasonic authentication device has the function of receiving a message/command and reply by accepting or not accepting the command, therefore, Tamir does not teach away from the above mentioned broad limitations.

11. Applicant's arguments filed 4/30/2008 have been fully considered but they are not persuasive.

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MCDIEUNEL MARC whose telephone number is (571)272-6964. The examiner can normally be reached on 6:30-5:00 Mon-Thu.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Khoi Tran can be reached on (571) 272-6919. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**/McDieunel Marc/  
Examiner, Art Unit 3664  
Wednesday, July 16, 2008**

MM/

**/Khoi H Tran/  
Supervisory Patent Examiner, Art Unit 3664**